

COUNCIL MEETING

APRIL 24, 2013

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Līhu'e, Kaua'i, on Wednesday, April 24, 2013 at 9:01 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Mr. Bynum, and unanimously carried.

MINUTES of the following meetings of the Council:

March 20, 2013 Special Council Meeting
March 27, 2013 Public Hearing re: Bill No. 2467
April 3, 2013 Public Hearing re: Bill No. 2473
April 10, 2013 Public Hearing re: Bill No. 2468, Bill No. 2469, and Bill No. 2470

Mr. Bynum moved to approve the Minutes as circulated, seconded by Mr. Rapozo, and unanimously carried.

CONSENT CALENDAR:

C 2013-161 Communication (04/02/2013) from the Planning Director, transmitting for Council information, a Resolution adopted by the Kaua'i Historic Preservation Commission (KHPRC) recommending that a full time Historic Preservation Planner position be established within the County of Kaua'i Planning Department: Mr. Bynum moved to receive C 2013-161 for the record, seconded by Mr. Rapozo, and unanimously carried.

C 2013-162 Communication (04/08/2013) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointees to the various Boards and Commissions for the County of Kaua'i:

(1) Fire Commission:

- Heidi K. Huddy-Yamamoto – Term ending 12/31/2013

(2) Cost Control Commission:

- Joanne P. Nakashima – Term ending 12/31/2013:

Mr. Bynum moved to receive C 2013-162 for the record, seconded by Mr. Rapozo, and unanimously carried.

Chair Furfaro: For the general audience, it is our plan to go into Executive Session first this morning so that you are aware of our calendar. When we come back, we are going to go into Communications. May I ask the County Attorney to please come up at this time? Good morning, Amy.

There being no objections, the rules were suspended.

AMY I. ESAKI, First Deputy County Attorney: Good morning. Amy Esaki, First Deputy County Attorney.

Chair Furfaro: Amy, there is only one (1) item that we need to address this morning. I will call you back up later this afternoon for the other Executive Sessions.

Ms. Esaki: Is that for ES-619 and ES-620?

Chair Furfaro: Yes.

Ms. Esaki: Okay. I will proceed by reading the posting.

There being no objections, ES-619 and ES-620 was taken out of the order.

EXECUTIVE SESSION:

ES-619 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2) and Kaua'i County Charter Section 3.07(E), the Board of Ethics requests an Executive Session with the Council to provide the Council with a briefing on the retention of special counsel to represent the Board of Ethics in BOE 13-001 and related matters. This briefing and consultation involves the hire, evaluation, discipline or dismissal, or discipline of an officer or employee or of charges brought against an officer or employee where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held.

ES-620 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2) and Kaua'i County Charter Section 3.07(E), the Board of Ethics requests an Executive Session with the Council to provide the Council with a briefing on the retention of special counsel for the Board of Ethics in BOE 13-001 and related matters. This briefing and consultation involves the hire, evaluation, discipline or dismissal, or discipline of an officer or employee or of charges brought against an officer or employee where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: Thank you. Amy, before I call for the vote to go into Executive Session, I am going to also ask that we vote now since our

candidates are here on the two (2) Commission interviews. I think everyone was fine with those items. First, let me do a roll call on going into Executive Session.

Mr. Rapozo moved to convene into Executive Session for ES-619 and ES-620, seconded by Ms. Yukimura, and carried by the following vote:

| | | |
|-----------------------------|---|------------|
| FOR EXECUTIVE SESSIONS: | Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST EXECUTIVE SESSIONS: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Chair Furfaro: I would like to vote on our two (2) candidates this morning.

There being no objections, Resolution No. 2013-49 was taken out of the order.

RESOLUTIONS:

Resolution No. 2013-49 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE FIRE COMMISSION (*Heidy K. Huddy-Yamamoto*)

Mr. Rapozo moved for adoption of Resolution No. 2013-49, seconded by Ms. Yukimura, and carried by the following vote:

| | | |
|-----------------------|---|------------|
| FOR APPROVAL: | Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

There being no objections, Resolution No. 2013-50 was taken out of the order.

Resolution No. 2013-50 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE COST CONTROL COMMISSION (*Joanne P. Nakashima*): Mr. Hooser moved for adoption of Resolution No. 2013-50, seconded by Ms. Yukimura.

Chair Furfaro: Any discussion?

Mr. Kagawa: Homerun.

Chair Furfaro: Wow. First day and a homerun. Terrific. I forgot baseball season just opened too.

The motion to adopt Resolution No. 2013-50 was then put, and carried by the following vote:

| | | |
|-----------------------|---|------------|
| FOR APPROVAL: | Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Chair Furfaro: Seven (7) ayes. Grand slam with bases loaded. Joanne, Thank you very much for your service. Paula, thank you very much. For the public who is in the audience, we are breaking and voted on going into one (1) Executive Session this morning. Members, can I ask you if we can break into the Executive Chambers no more than five (5) minutes, please. We are in recess and going into Executive Session.

There being no objections, the meeting recessed at 9:08 a.m.

The meeting reconvened back from Executive Session at 9:46 a.m., and proceeded as follows:

Ms. Nakamura: The Council Meeting is called back to order. We would like to take two (2) Communications first. We will do one at a time. Can you read the first Communication?

COMMUNICATIONS:

C 2013-163 Communication (04/03/2013) from the Chair of the Board of Ethics (BOE) for authorization to expend funds up to \$7,000 to retain special counsel to represent the Board of Ethics in drafting a resolution setting forth the nature and scope of an investigation related to BOE 13-001, providing legal advice during Board meetings pertaining to said investigation, and related matters: Mr. Rapozo moved to approve C 2013-163, seconded by Mr. Bynum, and unanimously carried.

C 2013-164 Communication (04/03/2013) from the Chair of the Board of Ethics (BOE) for authorization to expend funds up to \$10,000 to retain special counsel for the Board of Ethics to investigate BOE 13-001 and related matters: Mr. Bynum moved to approve C 2013-164, seconded by Mr. Rapozo.

Mr. Rapozo: I have something to say, Madame Chair. As it relates to C 2013-163 and C 2013-164, can we have Staff send over a request to the Board of Ethics to keep us posted as far as when these things are accomplished? I want to be informed of when the Special Counsel for C 2013-163 is retained, more specifically. Thank you.

Ms. Nakamura: Okay. Thank you. Staff, can we make note of that concern and keep the Council updated during this process.

The motion to approve C 2013-164 was then put, and unanimously carried.

There being no objections, the meeting recessed at 9:48 a.m.

The meeting reconvened at 9:51 a.m., and proceeded as follows:

Chair Furfaro: We are back. I believe we are on Page 2 which is C 2013-165. Can I have that item read, please?

C 2013-165 Communication (04/03/2013) from the Chief of Police, requesting Council approval to purchase two (2) replacement dispatch console furnishings for the communications center at an estimated cost of \$45,000 which will be funded from unexpended funds in account number 001-1001-551.89-06: Mr. Kagawa moved to approve C 2013-165, seconded by Mr. Rapozo, and unanimously carried.

Chair Furfaro: Please come right up, in case there are any questions.

There being no objections, the rules were suspended.

Chair Furfaro: You might not even have to turn on your mic. Let us see if we have any questions for you. Are there any questions for the Police Department? No. Thank you for being here with David. Is there anyone in the audience who wants to testify?

The meeting was called back to order, and proceeded as follows:

The motion to approve C 2013-165 was then put, and unanimously carried.

C 2013-166 Communication (04/08/2013) from the Director of Finance, transmitting for Council information, the Third Quarter Statement of Equipment Purchases for Fiscal Year 2012-2013, pursuant to Section 17, Ordinance No. B-2012-736, the Fiscal Year 2012-2013 Operating Budget of the County of Kaua'i: Mr. Rapozo moved to receive C 2013-166 for the record, seconded by Mr. Kagawa, and unanimously carried.

C 2013-167 Communication (04/10/2013) from the Director of Finance, transmitting for Council information, the Periods 7 & 8 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of February 28, 2013, pursuant to Section 21 of the Fiscal Year 2012-2013 Operating Budget Ordinance No. B-2012-736 of the County of Kaua'i. (*Copies of the Periods 7 & 8 Financial Reports as of February 28, 2013 on file in the County Clerk's Office*): Mr. Rapozo moved to receive C 2013-167 for the record, seconded by Ms. Yukimura.

Chair Furfaro: I have some discussion but I will give you the floor first.

Ms. Nakamura: Thank you. Councilmembers, the Communication that we received—I think it is by the Budget Proviso that we have this item on the agenda and the document is very thick. Over the past two (2) years, I have tried to discuss with the Department of Finance to get it into a format that is more condensed into three (3) or four (4) pages that summarizes all of that data. I will be working on a proviso to the Budget that gives that direction to the Department of Finance. I just wanted to let you know that I am hoping we can see it in our Budget packets if it is five (5) pages long. Thank you.

Mr. Bynum: I just want to thank you for that initiative. I am one who reviews these documents. It is a learning curve to find out where the numbers are that you are really interested in and most of the paper is not something I review. There are just these key elements that you have to kind of search through to find them. It is a great idea and I concur.

Ms. Nakamura: Most of the Boards that I have been on, all you get is a summary of the financial situations, at least quarterly. I know that the Department of Finance has worked on it and they have shown me samples of what they could be producing, but they just have not. We will be working on that.

Mr. Bynum:

Thank you.

Chair Furfaro: I would like a communication to go over. Since I was the Finance Chair, I used to do the cash accounts which reference the Cash Flow for the period in the period. Since we are in Budget, regardless of this new potential reporting that potentially will be developed by Mr. Bynum and Council Vice Chair Nakamura, I just want them to simply send us a financial document that shows us the variables in the amounts we are spending for eight (8) months. In other words, if the account is budgeted for five point eight million dollars (\$5,800,000) and they have only spent four point one million dollars (\$4,100,000), they are showing us a Cash Flow balance of one point seven percent (1.7%). They are not spending in accordance with the budget practices. We will send that over as a separate communication. I want a statement that tells us what our cash comparison against the budgeted amounts.

Mr. Rapozo: For me, all I really need to see is the Budget, the actuals up to the quarter, and the anticipated encumbrances. That is for me and for my little, small mind. That is all I need as we prepare for Budget.

Chair Furfaro: What I just said is exactly what you just described.

Mr. Rapozo:

Thank you.

Chair Furfaro: Budget amount, what the cash spending is, and showing us what the surplus is is those accounts. Any further discussion?

The motion to receive C 2013-167 for the record was then put, and unanimously carried.

C 2013-168 Communication (04/16/2013) from the Managing Director of Hō'ike Kaua'i Community Television, Inc., requesting Council approval to accept the donations of four (4) High Definition VADCCU HD19 cameras valued at approximately \$22,895 for use in the Historic County Building's Council Chambers for the video production of Council and Committee Meetings: Mr. Kagawa moved to approve C 2013-168 with a thank you letter, seconded by Mr. Rapozo.

Chair Furfaro: Members, I want to say a little bit more. This is something that I have been working with Jay on since we got our new cameras and processing. Hō'ike made this commitment to assist us in getting the right equipment to do the right job. Thank you for noting the thank you letter, but I want to you all note that personally over the last year, Jay and Hō'ike have come through for us. They are much appreciated. Thank you.

Ms. Yukimura: I also have great appreciation for the work that you, Chair and Hō'ike have done. I am continually astounded at how many people watch this. Councilmember Rapozo says millions. It is really a very important tool of democracy, I think, that allows the videotaping and transmission of these meetings which allows the public to participate fully and become informed. There is a circle back to us as they come to inform us of their position. It is a very, very important part of our democratic process. Anything to make it work well is very much appreciated.

Chair Furfaro:

Yes. Thank you.

Mr. Kagawa: I want to thank you, Mr. Chair, and Jay Robertson from Hō'ike and all of Hō'ike's board and everybody—Mr. BC. I think for better or for worse, like Councilmember Yukimura said, we are highly visible to the public and it is a credit to Hō'ike and their mission that so many people follow on the television and online. I want to thank you very much. I wanted to mention that I got my broadcasting start with Jay at KUAI Radio. We did Kaua'i Interscholastic Federation (KIF) football and baseball for approximately seven (7) years together. We even did a State championship game at Aloha Stadium, a couple of those games. Jay is a great guy and I just want to thank Hō'ike because you guys are definitely serving the mission of public television. Thank you.

Chair Furfaro: BC, excellent job. *Mahalo*.

The motion to approve C 2013-168 with thank-you letter was then put, and unanimously carried.

Chair Furfaro: Clerk, on C 2013-169 I wanted to defer until we get ready to go to Executive Session.

LEGAL DOCUMENT:

C 2013-170 Communication (04/10/2013) from the Mayor, recommending for Council approval, the following: Dedication Deed by Peter F. Fisher, Trustee under that certain Declaration of Trust known as the Peter F. Fisher Trust dated April 24, 2006, and as Successor Trustee under that certain Declaration of Trust known as the Elizabeth A. Fisher-Lavoie Trust dated April 24, 2006, conveying to the County of Kaua'i Lot 55-A-1, Wailua Houselots, Fourth Series, Wailua, Kawaihau, Kaua'i, Hawai'i, for road widening purposes: Ms. Yukimura moved to approve C 2013-170, seconded by Mr. Hooser.

Chair Furfaro: Councilmembers, communicating a message here. Mr. Rapozo, you have the floor.

Mr. Rapozo: Normally, when we get these requests that come over, there is a reason other than road widening. Do we know what this is actually for?

Chair Furfaro: I actually think a while back we had a presentation on this.

Mr. Rapozo: Really?

Chair Furfaro: I may be mistaken.

Mr. Rapozo: This is right there by the Wastewater Treatment Plant. I went through these documents and there is no purpose other than for road widening, unless someone knows?

Chair Furfaro: Excuse me, to the County Attorney, Amy, are you able to expand on this for a little bit for us? This is the Dedication Deed for some additional land near the Wastewater Treatment Lift Station.

Ms. Esaki: I think the only thing that is stated on the Communication is for road widening. I do not see anything in the Deed itself, as far as the purposes.

Chair Furfaro: Okay.

Ms. Esaki: If you do not mind, I can call Ian Jung who worked on this Deed.

Chair Furfaro: I think it might be good to do that.

Ms. Esaki: Okay.

Chair Furfaro: Let me see if we have a question for you, and then you can call him and we can come back to this item.

Ms. Yukimura: My impression is that we often get dedications for road widening, especially when they subdivide. Sometimes that is where the Planning Commission requires dedication of some land. I do not mind finding out more details. My impression is that they come through quite regularly.

Mr. Rapozo: I agree, JoAnn. Typically, it explains why. Typically, the cover letter from the Administration will say why and what the need is. Is it a subdivision? I know this one says that it is required through a 2008 Variance Permit. I feel uncomfortable supporting anything without a—it is for road widening but what is the road widening for? Is it a favor? I do not know. That is all I am saying.

Ms. Yukimura: Okay.

Ms. Nakamura: I think that further explanation would be helpful. I can see that the road is widened further up the road. I can see maybe the Department of Public Works wants to just continue that widening further down. I think it is helpful to understand what their plan is for Haleilio Road. What purpose will this serve? Do they have any short or long-term plans to make the improvements? Maybe it is to make it a complete street. It would be good to know the context in which this is being proposed.

Ms. Esaki: I can check and report back.

Chair Furfaro: I just sent Jade to do that.

Ms. Esaki: Okay.

Chair Furfaro: We are going to just come back to this item.

Ms. Esaki: Okay, great.

Chair Furfaro: Let me see if there are any more questions for you.

Ms. Esaki: It does show within the map the area that is being widened and it is highlighted in yellow.

Chair Furfaro: Yes, but I am going to have someone come over.

Ms. Esaki: Sure. Thank you.

Mr. Rapozo: I see the map, Amy, and it is on the lot at the junction of Haleilio and Apana. I live up in the House Lots and the other section below that, the one that runs alongside the plant?

Ms. Esaki: Yes.

Mr. Rapozo: That is the problem there. That is why I was just curious of why we are only doing it for that private lot. They are going to dedicate and widen that, but what about next road which is the junction at Kūhiō and Haleilio? That is where the backlog is, right on the outside. It looks like the applicant is Kayak Wailua. I am not sure what they have planned. Is that for commercial? Is that going to be a parking lot? Anyway, I have a lot of questions.

Ms. Esaki: Okay. We will find out.

Mr. Rapozo: Thank you.

Chair Furfaro: We are fine for now. Obviously, that also connects to the old road that service the Coco Palms maintenance yard. We will leave it at that for now. May I ask the Clerk to go back to C 2013-169? I believe that even though I posted in Executive Session, everybody has an understanding of this request on C 2013-169.

COMMUNICATIONS:

C 2013-169 Communication (04/17/2013) from the County Attorney, requesting Council approval to expend funds up to \$15,000 for special counsel's continued services to advise and represent the County Council in matters relating to the investigations of personnel matters involving the County Auditor's Office, and related matters: Mr. Kagawa moved to approve C 2013-169, seconded by Mr. Rapozo, and unanimously carried.

Chair Furfaro: We can disregard the Executive Session. We will come back to C 2013-170. Let us go to Claims.

CLAIM:

C 2013-171 Communication (04/08/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Harold Ames, for damages to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Rapozo moved to refer C 2013-171 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Ms. Yukimura, and unanimously carried.

COMMITTEE REPORTS:PLANNING COMMITTEE:

A report (No. CR-PL 2013-02) submitted by the Planning Committee, recommending that the following be received for the record:

"PL 2013-01 Communication (03/22/2013) from Committee Chair Nakamura, requesting the presence of the Planning Department to provide an overview on the County of Kaua'i's Six-Year Capital Improvement Projects Fiscal Year 2013-2014 to Fiscal Year 2018-2019 Report,"

Mr. Rapozo moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried.

A report (No. CR-PL 2013-03) submitted by the Planning Committee, recommending that the following be approved on second and final reading:

"Bill No. 2469 A BILL FOR AN ORDINANCE AMENDING THE GENERAL PLAN DESIGNATION FOR THAT CERTAIN AREA LOCATED IN PUHI, KAUAI, HAWAII AND IDENTIFIED AS TAX MAP KEY NO. (4) 3-8-002:016. (*Island School, Applicant*),"

Mr. Rapozo moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried. (See later for Bill No. 2469).

HOUSING & TRANSPORTATION COMMITTEE:

A report (No. CR-HT 2013-01) submitted by the Housing & Transportation Committee, recommending that the following be received for the record:

“HT 2013-01 Communication (03/13/2013) from Committee Chair Yukimura, requesting the presence of Mayela Sosa, Assistant Division Administrator, United States Department of Transportation –Federal Highway Administration, to provide an overview on the Moving Ahead for Progress in the 21st Century Act (MAP-21) that was signed into law by President Barack Obama on July 6, 2012,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Hooser, and unanimously carried.

A report (No. CR-HT 2013-02) submitted by the Housing & Transportation Committee, recommending that the following be received for the record:

“HT 2013-02 Communication (03/27/2013) from Committee Chair Yukimura, requesting agenda time to share a full-page feature story on the Ke Ala Hele Makalae Multi-Use Path that appeared in the March 9, 2013, edition of The Seattle Times Travel Section, as it relates to highlighting the value of the path for Kaua’i residents and the visitor industry,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Hooser, and unanimously carried.

FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE:

A report (No. CR-FED 2013-07) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be approved as amended on second and final reading:

“Bill No. 2467 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED RELATING TO REAL PROPERTY TAX,”

Mr. Rapozo moved for approval of the report, seconded by Ms. Nakamura, and unanimously carried. (See later for Bill No. 2467, Draft 1).

A report (No. CR-FED 2013-08) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be approved on second and final reading:

“Bill No. 2468 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND THE SOLID WASTE FUND,”

Mr. Rapozo moved for approval of the report, seconded by Ms. Nakamura, and unanimously carried. (See later for Bill No. 2468).

BILLS FOR SECOND READING:

BILL NO. 2460, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, OF THE KAUAI COUNTY CODE 1987, AS AMENDED, ENTITLED “BUILDING CODE”: Mr. Bynum moved for adoption of Bill No. 2460, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Kagawa.

Chair Furfaro: Is there anyone in the audience who wants to offer testimony for this? If not, Mr. Hooser.

Mr. Hooser: This Bill—the underlying Legislation from the State will likely change.

Chair Furfaro: I understand they had public hearing yesterday but they rescheduled it?

Mr. Hooser: Right. They have had conference meetings all week. It has the conference draft as it stands right now and passing the law would eliminate the need to pass this Legislation, not necessarily for the better in terms of the County perspective but it would eliminate the need. Basically, the State would just simply make a law and not ask the County to do anything at all. They are just saying this is what it is. The parameters of that could likely be different from what we are voting on today.

Chair Furfaro: We should defer it for two (2) weeks?

Mr. Hooser: I would suggest deferring it because for two (2) weeks, we will know whether the Bill is alive or dead and we can act accordingly.

Chair Furfaro: Before I take that motion, I am going to allow extended discussion.

Mr. Hooser: I just have a little follow-up. I have been following this Bill closely. There is good news and bad news. At one time, when it was the way we would have preferred it, it would have given the County's discretion. That is the first House Draft. I spoke to the Chair and she agreed and amended the Bill to say "the Counties may put this list together to exempt various structures." The second House Draft came back where half of it was "may" and half of it was "shall." It got convoluted. Now they are in conference and they are considering other changes. I believe at the end of the day, they will pass it requiring these exemptions but not requiring any action by the Counties because for a variety of reasons. Hopefully, they are going to carve out I believe, provisions for hazardous, pesticide use, and that kind of thing. Those would not be allowed to be built. Structures, housing, and pesticides, and hazardous materials would not be exempt from the Building Permitting Code. That is what I am hopeful, but we will know in two (2) weeks.

Chair Furfaro: Okay.

Mr. Bynum: I just wanted to add to this for the sake of the public. Last year, the Legislature passed the Bill that required the County to exempt certain structures on Ag Land from Building Permits. This Legislation before us recognizes that, but asks people, "Okay, you do not have to apply for a permit but to build this structure, then assure us that it was built to the Building Code measures." Now this Legislation which Senator Hooser is referring to is a follow-up Legislation that says "not only do you not need a permit, but you do not have to build with the code. You do not have to demonstrate that it is code." I have very serious concerns about that on two (2) levels. One is just a home rule issue. These are issues that are traditionally left to the Counties, but we went through two (2) hurricanes. I was involved in one of those. This Bill would allow the construction of some very large ag structures like greenhouses and then not even require that they be built to code. In the case of a hurricane, we can have very large wind blow debris. This is a health and safety matter for the County. The health and safety of citizens related to these types of projects are the County's role. I have testified against this Bill. I was in O'ahu yesterday speaking to one of the Senators involved in this, hoping to preserve the County's right and responsibility to make sure that we have safety for our citizens. I want to acknowledge Councilmember/Senator Hooser for his real close involvement with this Bill to give us the best shot. It is another example of where the State is saying, "In our infinite

wisdom, we know more about Kaua'i than you do. We are going to exempt you from the powers that are traditionally yours." That is very uncomfortable.

Chair Furfaro: I want to remind everybody that Mr. Hooser has been tracking this for us as this has been getting its deviations and his recommendation at this point is a two (2) week deferral. Mr. Kagawa, you have the floor.

Mr. Kagawa: Yes, real quick. I would like to thank both Councilmembers Hooser and Bynum for their attention to this Bill. I hate to have an "us versus them" picture regarding ag structures. I think the State is hearing a lot of what the ag people would want; however, sometimes it comes at the cost of us and taking care of our responsibility. I want to thank Councilmembers for keeping that in mind. We had a recent tragedy in Texas where we still do not know why the explosion happened. It had to do with the storage of fertilizers and chemicals I believe. I surely do not want that kind of accident happening here on our island. We want to ensure that when we have structures that are built holding these items that it is done in a safe manner and not close in proximity to our residents. Thank you.

Mr. Hooser: Just very briefly, that was a good example that Councilmember Kagawa lays just now. I just wanted to add that every County was submitting testimony opposing the manner in which this was being proposed. The Director of the Department of Agriculture, Russell Kokubun, also submitted testimony recommending they defer the Counties. Unfortunately, that message has not gotten across. Often times, I am checking my messages here and I step out. I am tracking the Legislation. I believe it was last week when the second House Committee heard it. There was literally five (5) minutes notification. I am on the electronic notification. I got a notification on my phone during a meeting, checked it, and it said that the meeting was in fifteen (15) minutes. This was public notice and it is fairly outrageous. I stepped out of the meeting. I called the Office of that particular committee and expressed my concerns. I just wished that they would—some of these Chairpersons need to have more concern for neighbor island people particularly, but the public in general. I am trying to get that message across in an appropriate manner also. Thank you.

Chair Furfaro: I agree with that, especially when you have people like yourself who served on the Council—the Agriculture Director, Mr. Kokubun, who was Senator and before that he was on the Hawai'i Island Council. They have the sensitivity to this specific County need. If there is no further discussion, I am going to let Mr. Hooser make the motion for the deferral.

Mr. Hooser moved to defer Bill No. 2460, Draft 1, seconded by Ms. Yukimura.

Chair Furfaro: No discussion on a deferral. Mr. Mickens, can you hold on for just a second here. JoAnn, may I ask you to remove your second for right now.

Ms. Yukimura: Sure.

Ms. Yukimura withdrew her second from Mr. Hooser's motion to defer Bill No. 2460, Draft 1.

Chair Furfaro: Okay. Sorry about that, Glenn.

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you, Jay. I just want to compliment Gary for staying on top of this thing. I agree with him one hundred percent (100%) that there is no reason to eliminate code for the Building Code. It is a safety issue. What would be the rationale for the Legislature pushing to have this thing to eliminate such a thing? Is it to give more breaks to the farmers and ag people? I presume that, which is great because they need all the help they can possibly get but they certainly should not have to eliminate the Building Code, especially as Tim has pointed out that it is a huge safety issue. I just want to thank Gary for staying on top of this thing and making sure that it is done properly. Do you think the direction they are going at this stage of the game is pro or con?

Chair Furfaro: Actually, you have to address that to me but if Mr. Hooser chooses to answer then I will give him the time. Go ahead.

Mr. Hooser: I believe it will be improved somewhat if they carve out the storage of hazardous and pesticide materials, which the last draft had and kind of carved out some of it but not totally. If that happens, it will be a good thing. It would be better than it was before from that perspective. It would be worse because it is now the code and not just the permit. The intent is, yes, to help small farmers. I think we recognized that but there needs to be discretion for the nature and location of the activity. I do not want to go any further. Thank you.

Mr. Mickens: Thank you, Gary.

Chair Furfaro: Hold on a second, Glenn.

Mr. Bynum: I just want to say the original concept was to make it easier for farmers to do typical ag structures that are relatively minor without cumbersome regulations. The County is saying, "Okay, here are the ones that we think can just through without code or permit. Here are the ones where we still think has a safety issue." For small farmers, this will be a good thing but there

are also larger ag businesses that has a pattern over the last few years of trying to exempt Counties from their traditional roles, just so that they do not have to mess with us I think. If the Counties were allowed to implement this, we would give the break to small farmers and give the break where it was really needed without doing a blanket thing that would allow large structures to be built without even assuring the County that they were built to the Building Code. It is like "we are not going to let houses without hurricane clips but we are going to let these get built and we will not even know how they were built and what structures." It is pretty scary to me.

Chair Furfaro: There are no more questions, Glenn. They had the floor and you gave your testimony. I went out of my way to lift the second for you as a personal courtesy of the Chair.

Mr. Mickens: I appreciate it.

Chair Furfaro: Mr. Kagawa, you have something for him.

Mr. Kagawa: Actually, Mr. Chair, I am sorry. I do not have anything for Mr. Mickens. I just had a personal request if you could consider after we finish with this item and move to our last Bill for Second Reading and get the Island School Bill out of the way, since we are moving fast. I believe we had unanimous support at the Committee.

Chair Furfaro: That sounds doable. I will fulfill your request.

Mr. Kagawa: Thank you, Mr. Chair.

Chair Furfaro: We have no more questions for you, Glenn.

Mr. Mickens: Thank you, Jay.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: Thank you very much. JoAnn, I will let you do your second on the deferral now, please.

The motion to defer Bill No. 2460, Draft 1, was then put, and unanimously carried.

Chair Furfaro: We are going to go a little bit out of order here. I want to do Island School first, and then I have Mr. Ian Jung for the conditions dealing with Haleilio Road. Let us go to Island School first.

There being no objection, Bill No. 2469 was taken out of the order.

BILL NO. 2469 – A BILL FOR AN ORDINANCE AMENDING THE GENERAL PLAN DESIGNATION FOR THAT CERTAIN AREA LOCATED IN PUHI, KAUA'I, HAWAII AND IDENTIFIED AS TAX MAP KEY NO. (4) 3-8-002:016. (*Island School, Applicant*): Ms. Nakamura moved for adoption of Bill No. 2469, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Ms. Yukimura.

Chair Furfaro: Members, are there any questions for the applicant? None, okay.

There being no objections, the rules were suspended.

Chair Furfaro: Is there anyone in the audience who wants to speak on this? Seeing none, I will call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: Members?

Mr. Kagawa: I would like to thank the applicant, Island School. I want to support them and wish them well as they try to expand their facilities and their options for their students. We are coming to a time where we are seeing a lot of success outside of the normal Department of Education (DOE). We are seeing Charter Schools do well and also Hawaiian Emergent type classes. There are a lot more options than when we were growing up. Island School is definitely—if you have the money or if you can qualify for scholarships, it offers an excellent education. We have seen numerous students succeed and do very well. I have a friend whose daughter is doing well and attending one of the top engineering schools in the mainland. She went through Island School. That is just another example of providing excellent options for our young students. Thank you.

Ms. Yukimura: I second that in terms of Island School being a real asset to the community. One of the things that impressed me was the planning and the way that they have planned their campus, and their expansion that coordinated with their curriculum. I think this is a really good thing to support. Thank you.

The motion for adoption of Bill No. 2469 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION: Bynum, Hooser, Kagawa, Nakamura,

| | | |
|-----------------------|---------------------------|------------|
| | Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST ADOPTION: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Chair Furfaro: Now I want to go back. We have an attorney here. Mr. Jung, can you please come up. We are going back to the item dealing with Haleilio Road and the Deed portion. I am sorry it is taking me a long time to look at this, but I do not see anything that really says that this is a communication as it was a condition from Planning. Am I correct?

There being no objections, the rules were suspended.

IAN K. JUNG, Deputy County Attorney: Good morning, Chair and Members of the Council. Deputy County Attorney, Ian Jung. That is correct. I apologize, I do not have the specific condition with me but I do recall this project going through. I know it is a Use Permit, Class IV Zoning Permit, and Variance Permit for a staging area for Mr. Fisher's business to bring the kayaking company participants to Wailua River. As a part of that condition, there is a request from the Department of Public Works to have a road widening area set aside for future expansion of Haleilio Road.

Chair Furfaro: Okay. Carrot juice does great things for you, especially with you memory and so on. I would like to make a personal request that again, something references in the correspondence from the Planning Department, and not that some of us became familiar with is because we saw it on the Planning channel. You have to help us with our memory. I am sixty-four (64) years old.

Mr. Jung: I understand, Chair. Unfortunately, I did not work on this transmittal to you but for a future note with all the transmittals that I do, I will note whether or not it is part of a condition or what the actual grounds for the dedication are.

Chair Furfaro: Young man, that would be much appreciated. Are there any questions for Mr. Jung? We will start with Councilmember Yukimura.

Ms. Yukimura: Ian, it is part of the regular practice of the Planning Department when they do have rezoning or Use Permits or those kinds of things, to circulate the application and the agencies like Highways, Public Works, or Roads, and at that point, as a condition or recommend a condition of approval for things like road widening.

Mr. Jung: Right. When the Planning Department does their 360 Review, all the affective agencies get blasted out for commentary on a project.

Ms. Yukimura: Right.

Mr. Jung: In this case, I believe the comments came back to look at road widening and the developer's authorized representative was willing to dedicate this land over as part of that comment from the Department of Public Works.

Ms. Yukimura: But it would only be as referenced to the parcel in the application?

Mr. Jung: Right. I think with the parcel to the East, *makai* of Apana Road, is the Coco Palms parcel so there are some plans already in place when they were looking at the traffic mitigation impact and how to address through that parcel as well. It is sort of a future planning mechanism that we dealt with when Lot 55 came in for their permit request. They are anticipating the future growth down the line.

Ms. Yukimura: In other words, hopefully we have a plan for the road eventually to be widened and then as parcels come in for rezoning, we ask for that portion of the plan.

Mr. Jung: Exactly.

Ms. Yukimura: Okay. Thank you.

Mr. Rapozo: Thank you, Ian, for coming by. You mentioned that they are going to be using this for staging?

Mr. Jung: I do not have the application before me but on the way over here, I was speaking with the authorized representative. From what I recall, they are going to have the participants in the kayaking operations come and park there in that parcel...

Mr. Rapozo: On the County road?

Mr. Jung: No, in the lot.

Mr. Rapozo: Okay.

Mr. Jung: In Lot 55, if you look at Exhibit A.

Mr. Rapozo: I believe there are some homes on there now?

Mr. Jung: Right. They also got the Use Permit and Class IV Zoning Permit to allow for the parking to be there so that the business can then shuttle its participants over to Wailua River, drop them off, and then come back.

Mr. Rapozo: The staging will be in Lot 55 and not on this dedicated portion?

Mr. Jung: Correct.

Mr. Rapozo: Okay. Thank you.

Mr. Jung: If you drive by, you will see how the fence is set back a distance from the roadway there. That is a new lot that was created, Lot 55-A-1, which if you guys approve this, will be the County lot.

Mr. Rapozo: Thank you.

Chair Furfaro: Mr. Jung, it is always nice to see you instead of just on the camera and so forth, and interacting with the Council on questions. If you can give us a little more information along the lines, it would be most helpful.

Mr. Jung: Sure. I apologize, I do not have my suit on but I ran over once I heard my name.

Chair Furfaro: To know that you ran over because the Council Chair called is very impressive. Have a good day.

Mr. Jung: Thank you.

Chair Furfaro: Is there any commentary on this?
Mr. Mickens, come up.

There being no objections, the rules were suspended.

Mr. Mickens: Thank you, Jay. For the record, Glenn Mickens. I would only suggest that as long as they are widening this road that it is going to be done properly. I know it is an old road which may not be up to standards. Is the County going to do this job?

Chair Furfaro: It will be kind of as needed incremental improvements, so I guess that is yet to be fully determined.

Mr. Mickens: Again, before we just jump into it and go ahead and widen the road and have a little section that is proper, it needs a swale which has been another complaint. They should put the swale like five (5) feet or something from the edge of the road so the water will run there and not run down the asphalt. It undermines and the thing collapses. All of our roads need that being done. In this particular thing, as long as we are going to do it, I am just suggesting that maybe it should be done properly completed. If the rest of the road is bad, you are going to take a new section and widen the thing. Now that is only going to be the good section of the road if it is done properly. Let us go ahead, look at the rest of it, and do the whole project properly. That is all.

Chair Furfaro: Thank you, Glenn. This is the first step that I think you would agree. If we do not have the land, we cannot put any road on top of it so this is conveying the Deed for the land.

Mr. Mickens: Right. In the next step then, let us see that it is done right. Thank you, Jay.

Chair Furfaro: Well taken. Come right up, Joe.

JOE ROSA: Good morning, members of the Council. For the record, Joe Rosa. I have not seen a plan or anything of that there, but I noticed that the kayak boating uses Apana Road. That is right in the back of the lot of that treatment plant when you come in. Apana Road is the first road when you are going in on your left. I know there were vacant lots and right now, there are a couple on houses in there. That used to be in a flood zone area. That is why the canal is right in the back of that too. If and when the time comes, Planning should look into no access from Haleilio Road but make access on Apana Road. That would be less hazardous for cars coming out or stopping top turn into that lot there. They could go more so into Apana Road and turn off into that lot. That is something to look into for a safety factor. I hate to say it, but a lot of times I used to tell the Engineers that is common sense. "Do not put it on the main drag because it is going to delay traffic on the main drag." If you got a road like Apana Road, utilize that road and put the approach in that road and let them come out to Haleilio Road. That is my comment on that there as a safety factor. Thank you.

Chair Furfaro: Thank you. I will put those notes and concerns in my correspondence that goes back to the Administration in our weekly meeting.

Mr. Rosa: Thank you. A lot of times, it is the safety that is overlooked. I always look for that because when I was in the Department of

Transportation (DOT), I was a member with the Occupational Safety and Health Administration (OSHA) Committee. Thank you.

Chair Furfaro:

So noted.

The meeting was called back to order, and proceeded as follows:

The motion to approve C 2013-170 was then put, and unanimously carried.

BILL NO. 2467, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED RELATING TO REAL PROPERTY TAX: Mr. Rapozo moved for adoption of Bill No. 2467, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Ms. Yukimura.

Ms. Yukimura:
if possible.

Chair, I need a ten (10) minute recess on this

Chair Furfaro:
minute recess.

Okay. We are going to take a ten (10)

There being no objections, the meeting was recessed at 10:36 a.m.

The meeting reconvened at 10:47 a.m., and proceeded as follows:

Chair Furfaro:
item did we have on there?

We are back from recess. Mr. Clerk, what

RICKY WATANABE, County Clerk: We are on Bill No. 2467, Draft 1. A motion and a second has been made to approve.

Chair Furfaro:
that is for an amendment.

It was requested to have a recess. I assume

Ms. Yukimura:

Yes. Council Vice Chair has the amendment.

Ms. Nakamura: Thank you. We received a communication from the Real Property Tax Division asking for some further amendments to clarify when the credit is available and what year the credit would be applied. The amendment clarifies this. Again, it reiterates what the gross income threshold is this year. I think with these clarifications they are more comfortable with moving forward.

Ms. Nakamura moved to amend Bill No. 2467, Draft 1 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Ms. Yukimura.

Chair Furfaro: Would any member like the floor to discuss the amendment any further?

Ms. Yukimura: I want to thank Vice Chair for preparing this amendment. It mainly clarifies and does not change the intent of the Bill. That is very helpful. I support the amendment and I hope the Council will too.

Chair Furfaro: Any further discussion on the amendment?

Mr. Rapozo: I have a question. Are there still outstanding tax payments for 2013? I believe the 2013 tax payments are done. I do not know. I am asking.

Ms. Yukimura: Actually, I had that question too. The taxes were imposed this year. They were billed—we have been told by Real Property that they are being billed in July and in February coming up. The assessments were done and the calculation of taxes was done.

Ms. Nakamura: They want to catch it in July.

Mr. Rapozo: They are going to do it in the second half of the tax billing of the 2013 tax year which is actually in 2014?

Ms. Yukimura: Right. That is how it was explained to us.

Mr. Rapozo: Okay. That is fine. If it came from them, I am sure they know what they are doing. Thanks.

Ms. Yukimura: Yes. That is why I wanted the recess too, actually. Okay.

Chair Furfaro: There is a motion on the amendment. I am going to do a roll call on the amendment.

The motion to amend Bill No. 2467, Draft 1 as circulated was then put, and carried by the following vote:

| | | |
|--------------------|--|------------|
| FOR AMENDMENT: | Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura | TOTAL – 6, |
| AGAINST AMENDMENT: | None | TOTAL – 0, |

| | |
|----------------------------|------------|
| EXCUSED & NOT VOTING: None | TOTAL – 0, |
| RECUSED & NOT VOTING: None | TOTAL – 0, |
| SILENT: Furfaro | TOTAL – 1. |

Chair Furfaro: We will go back to the main motion as amended now. Is there any further discussion?

Mr. Kagawa: Since we have millions watching, the main thing to note is that once this Bill passes, you have forty-five (45) days to submit your exemption request or credit request. The key is to have a gross income threshold of sixty thousand two hundred dollars (\$60,200) or less. I want to thank Councilmembers Yukimura and Nakamura. Like I said before at Committee, I am in support of giving those that need it the most for the exemption. Thank you.

Chair Furfaro: Okay. Any further discussion?

Ms. Yukimura: Thank you. As Councilmember Kagawa has pointed out, this is an opportunity for people who miss the deadline for the low income exemption to apply. It is limited and it is targeted for those who are most needy. The income level at sixty thousand two hundred dollars (\$60,200) or less and forty-five (45) more days to apply, so people need to go to the Real Property Tax Office as soon as possible. Thank you.

Chair Furfaro: Is there any further discussion? I am going to suspend the rules before we vote on the Bill as amended. Is there any public testimony?

There being no objections, the rules were suspended.

Chair Furfaro: Okay, there is none. I will call the meeting back to order.

The meeting was called back to order and proceeded as follows:

Chair Furfaro: We are going to do a roll call vote please.

The motion for adoption of Bill No. 2467, Draft 1 as amended to Bill No. 2467, Draft 2 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

| | | |
|-------------------|----------------------------------|------------|
| FOR ADOPTION: | Bynum, Hooser, Kagawa, Nakamura, | TOTAL – 6, |
| | Rapozo, Yukimura | |
| AGAINST ADOPTION: | None | TOTAL – 0, |

EXCUSED & NOT VOTING: None
RECUSED & NOT VOTING: None
SILENT: Furfaro

TOTAL – 0,
TOTAL – 0,
TOTAL – 1.

Chair Furfaro: I would like to say that I am going to vote silent for a very specific reason. I think touching on moving deadlines is very difficult for me. I want these minutes to show that I support the rationale on those deserving, but I am concerned with the fact that we begun moving deadlines. Therefore, my vote will be silent but it will be counted with the majority. Let us go to the next item.

BILL NO. 2468 – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND THE SOLID WASTE FUND: Mr. Bynum moved for adoption of Bill No. 2468, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Rapozo.

Chair Furfaro: Is there any further discussion from the members before I call for the public?

Mr. Kagawa: I saw a bit of confusion in Committee when I mentioned that I am concerned about our accounting of these accounts and their movement of moneys. It just hinges on the fact that we are being asked in this fiscal to raise property taxes to fill a huge gap that the Administration is saying that we are facing. They are saying that basically, if we do not raise taxes, we will have no surplus or reserve to subsidize having more expenditures than revenues. In the history of County Government, I cannot remember when we have not had a quite substantial surplus. It is these accounting measures that I feel could be ways of hiding surplus and later on, after approving the Budget, we are going to have these surplus amounts come up. We will find out that when we were told we needed to raise taxes to balance the Budget, which in fact, we did not need to do it. That is why I made my comments. Thank you.

Chair Furfaro: Okay. Are there any additional comments on this Bill? Is there anyone in the audience who wishes to testify?

There being no objections, the rules were suspended.

Mr. Mickens: Thank you, Jay. For the record, Glenn Mickens. I just wanted to make a comment. If we can do away with the waste in this government, I do not think we are going to have to raise our taxes. Every time we turn around, we find out more and more where we have spent money that we should have spent. The bridges are the greatest example in the world. We spent

twelve million dollars (\$12,000,000) on a bridge that could have had it built for one million dollars (\$1,000,000). All of this money should be there but it is not there. It is gone. I think the point is that if we can just do away with any part of this waste like Ross is saying, the surplus is going to be there. Jay, I know that you have been one of the biggest proponents on this. We have to have a slice on there in case of hurricane.

Chair Furfaro:

It called a reserve.

Mr. Mickens: Okay. Reserve. I like your terminology. We have to have a reserve and now if the money as Ross is saying is gone, we are going to have to give more money. Is that going to be raising our gas tax or property tax? People are taxed to death now. They just cannot afford to keep on having these things go up. Anyway, I just think that we should take a long, hard look. I do not know where the enforcement mechanism is to see that this waste does not keep happening because it goes on and on. I think that is going to have to be addressed first. Thank you.

Chair Furfaro:

Thank you. Anyone else wishes to testify? I will call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro:

Does any members want to say anything?

Mr. Bynum: I just wanted to say in general that I have been a critic over the last three (3) years about how the Administration has proposed to us on managing the finances. However, since the new Finance Director is there and they had to face the realities of this year's Budget, which are difficult; I believe they are making changes in maneuvers to set us up for future stability as opposed to these fluctuations that we have allowed to happen. There were years where we generated huge surpluses and years where we are spending huge surpluses. If we manage our finances correctly, there will not be big changes in that Fund Balance, either up or down. I think with some of their new leadership, the Finance Department understands that. We have got to get through this really difficult period. There are proposals to raise taxes and fees this year, but that comes on the cost of four (4) years of falling taxes for some categories of taxpayers. Again, if we were managing, we would not have these big fluctuations. I think the Finance Department and Mayor are trying to set-up our future budgets so we are managing our fiscal house better. For that, I applaud them but that does not mean that this is not going to be a difficult year. This is the year to get our house in order to deal with anomalies in our finance system and tax system to make it fair and sustainable, without big changes. Thank you.

Mr. Rapozo: I just wanted to answer Mr. Micken's question of who polices it. It is really us, the Council who has the final authority. We get put in a very difficult position like today. This is three point two million dollars (\$3,200,000) that we are taking from the so called "Reserve Fund" to subsidize the Solid Waste Fund because there is not enough money in Solid Waste. I think what Mr. Kagawa said earlier makes a lot of sense. When we passed the Budget last year, basically we look at a balanced Budget. Mr. Kagawa's concern is that we are a year out from next year's Budget, and if we raise fourteen million dollars (\$14,000,000) worth of property taxes and fees, and come March/April of next year and realizing, "Hey, maybe we did not really have to do that." We are stuck here because Solid Waste needs the money. Mr. Chair, how much has been transferred? Do you have that number available for this fiscal year from the so called "Reserve?"

Chair Furfaro: I have it downstairs somewhere.

Mr. Rapozo: It is substantial.

Chair Furfaro: Yes, it is substantial.

Mr. Rapozo: It is substantial moneys that were in the so called "Surplus" to accommodate the financial needs in various departments. That is the dilemma we are in because we pass the Budget based on what we are told and what we are provided based on estimates and projections. As you get to the end of the year, realizing we do not have enough in these accounts, then we have to take from the Reserve. Like Mr. Kagawa, I am very hesitant about raising fees and taxes because I am maybe not as convinced that we need to at that level. Your points are well taken Mr. Mickens. I appreciate your testimony but what can you do. Our backs are against the wall and you have to approve this. Thank you.

Chair Furfaro: I want to say a couple of things because I do not want there to be too many misgivings here. We are going through a Budget process but on today's agenda, you will see that we are just accepting the financial report for the eight (8) months of this year. What we are certainly missing here is an understanding and they have had communication from me. We are required to get a financial report in a reasonable time so that we can understand our cash position. We just got the eight (8) month report. If we can stay current with that, we can be watching the road map on our spending. We can see what we are spending and what we are not? What is over budgeted and not programmed? What is over budgeted and programmed because one requires a Money Bill, which is what this is. We started the year and we were six (6) months into the year before we got a financial report. There is nobody who can fly like that. If you take a car, you have to be able to read the gas gage. You have to be able to read the oil light. That is where it starts. My compliment is out now that we finally got the eighth report of

what looks like nine (9) months into the year. I think Mr. Bynum gave them the appropriate phrase for doing that. We have to be consistent about that folks. I think Mr. Rapozo asked a very relevant question. "How much of the surplus have we spent through Money Bills in the year, for the year?" Remember at that time, we are not getting any financials so we are not clear on what the road map is. We need to start understanding from some of the policies that I have asked to be revisited and implemented. These things have to happen. The other thing I want people to realize is those five (5) years ago, the property values on our island was worth ninety-five million dollars (\$95,000,000), and we taxed on ninety-five million dollars (\$95,000,000) worth of value. Those values are now at eighty-three million dollars (\$83,000,000). We have got a little over eleven million dollars (\$11,000,000) dropped in value. To keep up with what you actually pay, you have to raise the rate to get us back where we were. I used to pay twenty-four hundred dollars (\$2,400) a year on my home. As my home value went down to five hundred five thousand dollars (\$505,000), I am not paying seventeen hundred dollars (\$1,700) for what I got at the same services. I have a cap on my property because I was the author of that. It is now at that point, that cap as Mr. Bynum has said, that was a temporary action. Really, really make sure. You have got to measure the appraised value and what you are paying in real dollars versus what your appraised value was, and you are paying on a lower hourly rate; a thousand dollar rate. That is what we have to understand. Am I actually paying more revenue? I have studied five (5) groups in the County. I am not spending that much more on my property tax compared to eight (8) years ago because my values have dropped so much. We have a choice. Those choices are as we went through the Budget, I think people saw the action and the questions and there was good back and forth dialogue. We are talking about controlling expenses because we are on this roller coaster ride. Please note that. There are some people who are going to be paying more for property taxes. There are going to be some people who are going to be paying less. Overall in the last five (5) year period, a lot of people are paying about the same, including the groups that I studied like nurses, police officers, and school teachers; the Council as a group; County employees as a group; those below the seventy thousand dollar (\$70,000) income bracket. There are those variables. To just say that we are raising taxes is concerning to me. What we are doing is raising rates on lower values. For the County, we have had more call for services which we will be hearing for today on the bus service expansion and so on. We have lower values in the County. That is one of the bigger problems and it is compounded by the fact that we go six (6) months into the year, and we are not able to read a financial. The Administration is making the improvements there. I want to make sure we understand that falling values, increased services, and maintaining the level we have now; those are all the variables that we need to keep track of. Now, we are being asked to add three point two million dollars (\$3,200,000) to a fund that we did not even know was falling behind that far because we were not getting the financial reports. You have got to be able to read a financial and you have to be able to read it so that it does not scare you. We will be taking a lot of testimony on that. With this Money Bill, across the

street has got to understand how valuable it is for us to have financial information on a regular basis. I think myself and Ross, who has a finance degree—if you are not able to read the balance sheet, you have no idea where you are at. I give my compliments to the Administration. As of now, we are current in eight (8) months. I want to make sure we all understand those moving parts because they are moving parts. I guess we are going to vote now. We will do a roll call vote.

The motion for adoption of Bill No. 2468 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

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|-----------------------|---|------------|
| FOR APPROVAL: | Bynum, Hooser, Kagawa, Nakamura, Rapoza, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Chair Furfaro: Let us send a reminder out, along with a congratulations letter that we are current on the financials and we expect to be so going forward. Thank you very much. I would like to go into some Executive Sessions. Mr. Kagawa, go ahead.

Mr. Kagawa: I would like to ask for a personal privilege, Mr. Chair. Today is Administrative and Professional's Day. I know it is reiterating, but I really would like to thank the Staff. I have been here for almost five (5) months. I have been more than pleased with the work of the Staff in assisting me to do my due diligence and providing me with very timely assistance. Happy Professional's Day to our Staff and to all of the Professional/Secretary staff on the island of Kaua'i. Thank you very much for all that you do for our island.

Chair Furfaro: Okay. Anymore personal privileges before we go into Executive Session?

Ms. Yukimura: I want to thank Councilmember Kagawa for reminding all of us. In the throes of Budget, I have to admit that I was not even aware that today is Administrative and Professional Assistant's Day. No doubt, our Offices, the County, and the world probably would not work without those who staff and enable our work. I think all of us want to say thank you to our Staff. We will make plans to have a lunch sometime in the next couple of weeks. Especially during Budget, it is so clear of the huge dedication and effort that goes into supporting the Council as we do our work. *Mahalo* to all of our Staff.

Mr. Hooser: You have to get up awful early in the morning to get ahead of Councilmember Kagawa. He is one up on us on this one. I

also want to offer my *aloha* and *mahalo* to our Staff. I was here before in the Council, spent years at the Senate, with the Governor's Office, and our Staff is good, if not better, than all of the staffs I have worked with. I have been totally impressed. I say that sincerely. There is professionalism, expertise, and a pleasant attitude and nature of the people who work here in this building. I want to give a special shout out to Lisa Watanabe because she is down there kind of alone. I see her all of the time and she is right there helping with a lot of the work that I do on a daily basis. *Mahalo* and thank you to everyone.

Chair Furfaro:

Any other personal privileges?

Mr. Rapozo: Obviously, I echo the comment by my colleagues. We used to do a big luncheon and get a table down at the Chamber. I do not know who put that thing on. I do not know what happened. I guess we forgot this year because maybe we are too involved in the Budget. I was surprised this morning when my wife gave me a tray of butter mochi and said, "This is for Administrative and Professional's Day." I said, "Oh my God, we did not even plan lunch." We will get that done, Mr. Chair. I have been in Council Services many years and this Staff has always performed well-above expectations. I do not know if the public can really appreciate—Mr. Hooser talked about Lisa Watanabe. Lisa has to service Gary, myself, Ross, and Nadine who are four (4) very different people. We have different opinions and Lisa has to deal with that, as well as our Analysts and our Legal Staff. They have to serve so many different bosses that it is difficult. I cannot imagine doing that. I wanted to give a shout out to let them know that we appreciate them and that we really appreciate what they do for us and for the community. Thank you very much, Staff.

Ms. Nakamura: Working with Lisa Watanabe is Lisa Ishibashi, who does a lot of scheduling for us. I really appreciate all of her work, as well as all of the Staff around here. They are behind the scenes doing the work that really makes this body move, having our meetings done every week, and documenting it, and just keeping us moving forward. We truly appreciate all of your hard work and dedication.

Chair Furfaro: I would just like to echo what I said early this morning when some of you were not in the Office yet. For those of you that were here, you heard my comments. This is a dedicated and very dynamic group that we have here. Your work is much appreciated. Since they already committed to what I committed to earlier this morning, we are planning to have some get-together in the next ten (10) days. Thank you again. We are very, very lucky to have you. May I ask the County Attorney to come up? For those of you in the audience, the rest of our business today is focused on Executive Sessions. We will be back at 1:30 p.m. for public hearings. We have eleven (11) of them today. We have a full agenda after 1:30 p.m. Now, I would also like to note for ES-610 that I

would like to defer, Amy. ES-619 and ES-620 is complete. Let us start with the balance on the next page.

There being no objections, the rules were suspended.

EXECUTIVE SESSION:

Ms. Esaki:

We have ES-621.

ES-621 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8); and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council, to provide the Council with a briefing as it relates to the investigation of personnel matters involving the Office of the County Auditor and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Ms. Esaki:

ES-622.

ES-622 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-5(a)(4) and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to allow Council to consult with the County Attorney, Human Resources Manager, and Director of Finance on questions and issues pertaining to car allowances and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Ms. Esaki:

We have five (5) Executive Sessions with the same posting so I will just read it one (1) time with the Executive Session numbers. They are ES-623, ES-624, ES-625, ES-626, and ES-627.

ES-623 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8); and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval of proposed settlement of a workers' compensation claim. This deliberation and/or decision making involves matters that require the consideration of information that must be kept confidential as, *inter alia*, it concerns significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, or evaluation, and which, pursuant to state or federal law, including Health Insurance Portability and Accountability Act, are protected from disclosure.

ES-624 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8); and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal

updates, overviews, and recommendations for purposes of obtaining Council approval of proposed settlement of a workers' compensation claim. This deliberation and/or decision making involves matters that require the consideration of information that must be kept confidential as, inter alia, it concerns significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, or evaluation, and which, pursuant to state or federal law, including Health Insurance Portability and Accountability Act, are protected from disclosure.

ES-625 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8); and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval of proposed settlement of a workers' compensation claim. This deliberation and/or decision making involves matters that require the consideration of information that must be kept confidential as, inter alia, it concerns significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, or evaluation, and which, pursuant to state or federal law, including Health Insurance Portability and Accountability Act, are protected from disclosure.

ES-626 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8); and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval of proposed settlement of a workers' compensation claim. This deliberation and/or decision making involves matters that require the consideration of information that must be kept confidential as, inter alia, it concerns significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, or evaluation, and which, pursuant to state or federal law, including Health Insurance Portability and Accountability Act, are protected from disclosure.

ES-627 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8); and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to consult with the Council's legal counsel to receive legal updates, overviews, and recommendations for purposes of obtaining Council approval of proposed settlement of a workers' compensation claim. This deliberation and/or decision making involves matters that require the consideration of information that must be kept confidential as, inter alia, it concerns significant privacy interests. The significant privacy interests relate to a medical history, diagnosis, condition, treatment, or evaluation, and which, pursuant to state or federal law, including Health Insurance Portability and Accountability Act, are protected from disclosure.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: Thank you, Amy. I want to ask that ES-610 be deferred.

Mr. Kagawa moved to defer ES-610 in open session, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: The next motions will go into a roll call vote please.

Ms. Yukimura moved to convene in Executive Session for ES-622, ES-623, ES-624, ES-625, ES-626, and ES-627, seconded by Mr. Kagawa, and carried by the following vote:

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| FOR EXECUTIVE SESSIONS: | Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL – 7, |
| AGAINST EXECUTIVE SESSIONS: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None | TOTAL – 0, |
| RECUSED& NOT VOTING: | None | TOTAL – 0. |

Chair Furfaro: We are going to go into Executive Session and then at 1:30 p.m., we are coming back on a number of public hearing items. Did I miss something?

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: Yes. Chair Furfaro, on ES-621, did you want to receive that now?

Chair Furfaro: Yes. I am sorry I missed that.

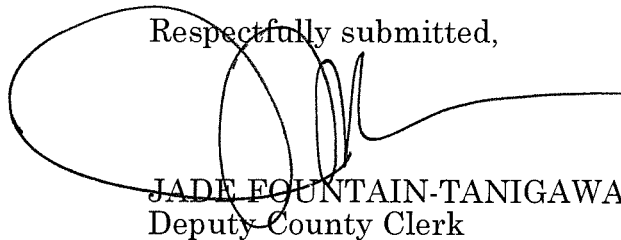
Mr. Rapozo moved to receive ES-621 for the record in open session, seconded by Ms. Nakamura, and unanimously carried.

Chair Furfaro: Thank you very much.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 11:19 a.m.

Respectfully submitted,



JADE FOUNTAIN-TANIGAWA
Deputy County Clerk

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(April 24, 2013)

FLOOR AMENDMENT

Bill No. 2467, Draft 1, Relating to Real Property Tax

Introduced By: NADINE K. NAKAMURA, Councilmember

Amend Bill No. 2467, Draft 1, by amending Section 2 to read as follows:

“SECTION 2. Section 5A-11.4 of the Kaua‘i County Code 1987, as amended, is hereby amended by amending subsection (e) to read as follows:

“(e) Low Income Homeowner Credit.

(1) Upon proper application, a homeowner shall be entitled to a credit equal to the difference between the real property tax assessed on the homeowner property for the 2013 tax year and the real property tax that would have been assessed if the homeowner applied for and was entitled to the exemption in subsection (d), or \$300.00, whichever is less. The credit shall only be available to those homeowners who missed the deadline to apply for the [credit] exemption in the 2013 tax year and shall be applied against payments due for the [2014] 2013 tax year. No credit shall be applied if taxes on the property are delinquent.

(2) No credit shall be granted pursuant to this section unless:

- (A) an application as set forth in subsection (d)(4) is submitted within forty five (45) days of enactment of this ordinance,
- (B) the homeowner meets all the criteria, including the 2013 gross income threshold of sixty thousand two hundred dollars (\$60,200.00), set forth in subsection (d) and
- (C) the credit is approved by the Director.

(3) Credits granted pursuant to this section shall not be transferable to other persons or properties.

(4) The Director may adopt rules and prescribe forms to implement this section.”

(Material to be deleted is bracketed. New material is underscored.)

V:\AMENDMENTS\2012-2014 term\Bill No 2467 Draft 1PM:aa

